
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

BMF ADVANCE, LLC, a New York limited liability company,

Plaintiff,

vs.

LITISCAPE, LLC, an Arizona limited liability company; ENCORP, LLC, an alleged limited liability company; EN CORP USA, a Texas corporation; JOSEPH H, INC, a foreign corporation; MICHAEL KAMALU, an individual; JOSEPH AZULAY, an individual; ENRIQUE GARCIA, an individual; VICTOR ENRIQUEZ, an individual; and DOES 1–10,

Defendants.

SCHEDULING ORDER

Civil No. 2:21-cv-00103

District Court Judge David Barlow

Magistrate Judge Dustin B. Pead

Pursuant to Fed. R. Civ. P. 16(b), the Court received the Attorney Planning Meeting Report filed by counsel. (ECF No. 36.) Consistent therewith, the following matters are now scheduled. The times and deadlines set forth herein may not be modified without the approval of the court and on a showing of good cause pursuant to Fed. R. Civ. P. 6.

****ALL TIMES 4:30 PM UNLESS INDICATED****

1.	PRELIMINARY MATTERS	DATE
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a. Nature of claims and any affirmative defenses:

Plaintiff BMF Advance, LLC (“*Plaintiff*”) alleges that the above-named defendants (collectively, “*Defendants*”) received funds (\$1.8 million) belonging to Plaintiff in conjunction with an alleged

transaction involving the purchase of nitrile gloves from a supplier in Vietnam. Plaintiff has learned that the alleged transaction either fell through or never existed. Nevertheless, Defendants have retained Plaintiff's funds. The facts and circumstances alleged in Plaintiff's Complaint demonstrate that it would be unjust for Defendants to keep the funds.

Defendants Joseph H, Inc. and Joseph Azulay deny liability on Plaintiff's claims and assert affirmative defenses, as set forth in Joseph H, Inc. and Joseph Azulay's Answer and Crossclaims. Joseph H, Inc. and Joseph Azulay assert various crossclaims against co-defendants Litiscape, Inc. ("**Litiscape**"), Michael Kamalu ("**Kamalu**"), EN Corp USA ("**EN Corp**"), Enrique Garcia ("**Garcia**"), and Victor Enriquez ("**Enriquez**") related to the nitrile gloves transaction, including but not limited to fraudulent inducement; unjust enrichment; contractual and equitable indemnity; and breach of contract.

Litiscape and Kamalu deny liability on Plaintiff's claims and assert affirmative defenses, as set forth in Litiscape and Kamalu's Answer and Crossclaim. Litiscape and Kamalu also assert various crossclaims against co-defendants Joseph H Inc, Joseph Azulay, EN Corp, Garcia, and Enriquez related to the nitrile gloves transaction, as set forth in Litiscape and Kamalu's Answer and Crossclaim.

EN Corp, Garcia, and Enriquez (collectively, "**EN Corp Defendants**") filed their motion to dismiss for lack of personal jurisdiction against Enriquez and Garcia and failure to state a claim against all the EN Corp Defendants (the "**Motion**"). (See Dkt. 22). Enriquez's and Garcia's actions regarding the transaction were solely made on behalf of EN

Corp and there is no basis for the imposition of personal liability against them. At the appropriate time, En Corp intends to assert various defenses based on certain misrepresentations made by some of the co-Defendants, as well as claims for damages for, among other things, the expenses incurred, as well as the lost revenue and profits suffered to secure a replacement supplier after losing Decotra as one of its primary suppliers based on these misrepresentations.

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| b. | Date the Rule 26(f)(1) conference was held? | 03/26/2021 |
| c. | Have the parties submitted the Attorney Planning Meeting Report? | 04/09/2021 |
| d. | Deadline for 26(a)(1) initial disclosures? ¹ | 04/16/2021 |

2.	DISCOVERY LIMITATIONS	NUMBER
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|----|---|----|
| a. | Maximum number of depositions by Plaintiff(s): | 10 |
| b. | Maximum number of depositions by Defendants Litiscape, LLC and Michael Kamalu: | 10 |
| c. | Maximum number of depositions by Defendants EN Corp USA, Enrique Garcia, and Victor Enriquez: | 10 |
| d. | Maximum number of depositions by Defendants Joseph Azulay and Joseph H Inc: | 10 |
| e. | Maximum number of hours for each deposition (unless extended by agreement of parties): | 7 |
| f. | Maximum interrogatories by any party to any party: | 30 |
| g. | Maximum requests for admissions by any party to any party: | 30 |
| h. | Maximum requests for production by any party to any party: | 30 |

For the purposes of the foregoing discovery limits, Litiscape, LLC and Michael Kamalu shall together constitute a single party; EN Corp

¹ Due to the pending Motion, the EN Corp Defendants will serve their Rule 26 initial disclosures within ten (10) days after the Court's ruling on the Motion should it confer personal jurisdiction over Enriquez and Garcia and rule that Plaintiff has stated a claim against the EN Corp Defendants.

USA, Enrique Garcia, and Victor Enriquez shall together constitute a single party; and Joseph H Inc. and Joseph Azulay shall together constitute a single party.


- i. The parties have agreed that the production of electronically stored information shall be governed by the standards of Fed. R. Civ. P. 34.
 - j. The parties have agreed to be governed by the form of the Standard Protective Order adopted by DUCivR 26-2(a).
 - k. Last day to serve written discovery: 01/28/2022
 - l. Close of fact discovery: 03/04/2022
 - 3. AMENDMENT OF PLEADINGS/ADDING PARTIES DATE**
 - a. Last day to file Motion to Amend Pleadings: 07/31/2021
 - b. Last day to file Motion to Add Parties: 07/31/2021
 - 4. RULE 26(a)(2) EXPERT REPORTS DATE**
 - a. Parties bearing burden of proof: 04/01/2022
 - b. Counter reports: 04/29/2022
 - 5. OTHER DEADLINES DATE**
 - a. Last day for expert discovery: 05/27/2022
 - b. Deadline for filing dispositive or potentially dispositive motions: 07/03/2022
 - c. Deadline for filing partial or complete motions to exclude expert testimony: 07/03/2022
- If the parties do not intend to file dispositive or potentially dispositive motions, a scheduling conference will be held for purposes of setting a trial date: 07/13/2022 at 2:45 p.m.**

After the court issues an order on the summary judgment motion(s), if there is anything left to litigate, the court will set a scheduling hearing to set a trial date and to ask the parties if they want to mediate. If the schedule set forth herein is not extended, the parties can generally expect that trial will be set sometime during the 1st quarter of 2023.

6.	SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION	DATE
a.	Likely to request referral to a magistrate judge for settlement conference:	Yes
b.	Likely to request referral to court-annexed arbitration:	No
c.	Likely to request referral to court-annexed mediation:	No
d.	Date for completion of private mediation/arbitration:	08/05/2022
e.	Evaluate case for settlement/ADR on:	07/03/2022
f.	Settlement probability:	Fair to Good

DATED the 19th day of April, 2021.

BY THE COURT:



Magistrate Judge Dustin B. Pead